

BASIN PLAN AMENDMENT TO INCORPORATE A VARIANCE PROVISION FOR THE GROUNDWATER MINERAL
QUALITY OBJECTIVES
ADDENDUM TO RESPONSIVENESS SUMMARY FOR NOVEMBER 22, 2005 PUBLIC NOTICE

Table 3. Addendum to list of commenters submitting written comments before the close of the public comment period.

Comment #	Commenter	Date Received
4	Latham and Watkins	01/06/06

Note: The comment # above corresponds to the first number in the Comment Number field in Table 4.

Table 4. Addendum to responsiveness summary for written comments submitted before the close of the public comment period.

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	LOCATION IN DOCUMENTS
4.1	The Los Angeles Basin suffers from significant saltwater intrusion, resulting in groundwater that is brackish and unfit for human consumption. While significant efforts have been made in terms of production control and injection barriers, the reality remains that these efforts have been focused on stemming, not undoing, the problem.	Given the water supply and demand in southern California and the current state of desalination technology, it is not unreasonable to consider groundwater with elevated TDS as a potential future water supply source. A Bureau of Reclamation report in 1997 ¹ stated that, “[C]osts for desalting in many applications have now moved from the realm of “expensive” to “competitive” with alternative sources of supply, depending upon site-specific conditions. Further, the difference between the cost of desalted water, or a blend with desalted water, and the cost of conventional supplies has narrowed substantially in the past 10 years.” In addition, the report states that there is little attempt by utilities to recover capital costs as a part of water rates and that instead capital costs are paid by grants or loans from federal or state agencies or by general obligation bonds. Later, to offset these costs, one-time impact fees or monthly basic facility charges or connection fees are assessed. The average cost for a one million gallon per day (MGD) RO plant ranges from \$2-7 million, according to this report.	None	
4.2	Unfortunately, our regulations do not always	See response to 4.1 above.	None	

¹ Survey of U.S. Water Costs and Water Rates for Desalination and Membrane Softening Plants, Water Treatment Technology Program Report No. 24.

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	respect this compromise, and require entities to take unnecessary and costly steps to remediate groundwater that will not be tapped for human use. If the RWQCB is willing to accept that areas of our coast will be underlain by seawater as a compromise to human habitation in this Basin, then it should not turn around and require private entities to treat these aquifers as if our water supply will one day depend on them.			
4.3	As the regional water demand fluctuates, it is necessary and appropriate to consider the possibility of de-designating the Municipal and Domestic Supply ("MUN") beneficial use from portions of the regional groundwater basins where the presence of naturally elevated levels of total dissolved solids ("TDS") are uncontrollable. The proposed variance fails in this regard because it merely provides a framework for excepting areas from mineral requirements, rather than MUN beneficial use requirements.	De-designation of the MUN use was considered as an alternative, but not recommended by staff in light of increasing population in southern California, the constant pressure on imported supplies from competing users, and the current state of desalination technology. Major water supply agencies, including MWD, are including seawater desalination and groundwater recovery in their long-term plans to meet water demand in southern California. ²	None	
4.4	In March of 1989, the RWQCB adopted Resolution 89-03, and designated all of the regional groundwater basins with the MUN beneficial use. This was a significantly more protective act than the SWRCB envisioned or required.	Almost all of the MUN designations of groundwater basins pre-date the adoption of Resolution 89-03. At the time of the adoption, the remaining two to three groundwater sub-basins, not already assigned the MUN designation were so designated. This is consistent with a reading of the Statewide Sources of Drinking Water Policy (SWRCB Resolution 88-63), which states that all surface and ground waters of the state are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should be so	None	

² See, for example, publications of the Metropolitan Water District of Southern California, "Seawater Desalination Program Update...at a glance" and "Conservation & more...at a glance".

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		designated by the Regional Boards with certain exceptions. The Statewide Sources of Drinking Water Policy continues by outlining the Regional Boards' authority and discretion to amend use designations per the policy. The policy states, "[A]ny body of water which has a current specific designation previously assigned to it by a Regional Board...may retain that designation at the Regional Board's discretion. Where a body of water is not currently designated as MUN but, in the opinion of a Regional Board, is presently or potentially suitable for MUN, the Regional Board shall include MUN in the beneficial use designation." (SWRCB Resolution 88-63)		
4.5	Since its adoption the RWQCB has come to realize that Resolution 89-03's classifications are, in certain areas, excessive and unnecessary.	This is an interpretation without basis. In 1998, the Regional Board chose to de-designate two geographically limited groundwater areas. The Regional Board did not conclude in its action that the MUN designations made under SWRCB Resolution 88-63 and Regional Board Resolution 89-03 were on the whole excessive and unnecessary. To the contrary, the scope of the Regional Board's action was very narrow, being limited to geographically small areas given unique circumstances associated with the two areas.	None	
4.6	Both of these de-designations [Chevron El Segundo Refinery and Terminal Island] were appropriate and reasonable in light of the poor quality of the groundwater and the undesirability of pumping from these locations. However, it is important to note that neither one of these de-designations would be possible under the current proposed variance... neither the Chevron nor the Terminal Island groundwater areas could meet requirement number two [of	The proposed amendment does not preclude future de-designations of the MUN use from groundwater areas through a separate basin plan amendment if site-specific conditions and circumstances warrant such a de-designation. However, in the proposed amendment, it is not staff's intent to limit the applicability to dischargers in areas where seawater pre-dates human activity.	Yes	Proposed amendment

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	<p>the exceptions to the Sources of Drinking Water Policy.]</p> <p><i>Requirement number two states that “the source of the elevated mineral concentrations is natural and not induced by current or past human activities, including but not limited to specific pollution incidents and diffuse sources of anthropogenic pollutants.</i></p>	<p>Proposed changes are as follows:</p> <ul style="list-style-type: none"> • Amendment language, 2nd paragraph, #2: “... not induced by current or past <u>discharge of pollutants.</u>” (delete “including...” to the end of the sentence) • Amendment language, 2nd paragraph, add #4: “The discharger has not caused or significantly contributed to the elevated mineral concentrations from which it seeks relief.” 		
4.7	<p>By requiring that the source of the elevated mineral levels be “not induced by current or <u>past</u> human activities,” the RWQCB is limiting the scope of the variance to the intrusion zone that would have existed along the coast prior to human activity in the region. If wells had never been drilled in the Los Angeles basin, the saltwater intrusion zone would not extend inland to any significant degree.</p>	<p>See second part of response to comment 4.6 above.</p>	Yes	Proposed amendment
4.8	<p>There is no reason why the RWQCB should surrender its authority to de-designate under these variance procedures, and instead require MUN de-designation requests to proceed only by Basin Plan amendment. For this variance procedure to be meaningful and effective in addressing our coastal aquifer environment, the RWQCB must have the authority to de-designate the MUN beneficial use when circumstances make such an option appropriate; otherwise, this variance will not simplify or standardize the de-designation</p>	<p>The Regional Board is not surrendering its authority to de-designate a beneficial use from a groundwater area where appropriate. This authority remains and may be used by the Board where warranted. However, a change in a beneficial use designation for a water body must always proceed through the Basin Plan amendment process.</p> <p>The proposed amendment provides another, more targeted, regulatory tool to address the compliance problem of naturally elevated mineral</p>	None	

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	requests.	concentrations, rather than the overly broad regulatory tool of de-designating a use.		
4.9	Considering the realities of the coastal groundwater environment in Los Angeles, it would not be unreasonable to de-designate those coastal aquifers where tidal fluctuations, marine sediments, and/or saltwater intrusion have elevated mineral concentrations to levels that make their use as a source of drinking water unlikely. Such an action would accurately reflect the current, historical, and likely future uses of the groundwater units. Moreover, de-designation of coastal groundwater units would not impact the RWQCB's ability to ensure that these areas remain protected because water quality objectives generally applicable to groundwater and the anti-degradation policy, State Board Resolution 68-16, would still apply.	The perspective of the Regional Board staff differs from the commenter in believing that these water resources could be tapped in the future as a water supply, given the state of desalination technology. See response to comments 4.1 and 4.3. We agree that de-designation would not leave the Regional Board without any way of protecting these water resources, however, we feel that de-designation is an overly broad approach to addressing natural conditions leading to high concentrations of minerals.	None	
4.10	Finally, rather than require regulated entities to reapply for a variance in five years, the proposed amendment should contain an automatic renewal following five years... Given the RWQCB's authority to satisfy itself that any particular groundwater area meets the requirements of the variance, there is no need to burden the regulated community with the time and expense associated with refiling for a renewed variance.	The requirement to reapply for a variance is consistent with surface water regulations and with requirements for dischargers to submit documentation related to permit reissuance.	None	